

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/26/2008 has been entered.

### ***Response to Amendment***

2. Applicant's amendment was received on 3/26/2008, and has been entered and made of record. Currently, **claims 1 – 9, 16 – 31 and 38 – 41** are pending.

### ***Response to Arguments***

3. Applicant's arguments (*see Remarks 3/26/2008 [pages 8 – 10]*) with respect to **claims 1 – 9, 16 – 31 and 38 – 41** have been fully considered and are persuasive. The rejections of these claims have been withdrawn.

### ***Claim Rejections - 35 USC § 101***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

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unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thornton*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6.

7. **Claims 18 and 22** are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over **claim 16** of U.S. Patent No. 6,498,611. A two-way test for obviousness is appropriate in this situation because Applicant could not have filed the conflicting claims in a single application, and administrative delay on the part of the Office caused the later filed application to issue first. Although the conflicting claims are not identical, they are not patentably distinct from each other because the generating at least one metavariable being indicative of two or more parameters of at least one of the devices, transmitting the metavariable to one or more other receiving devices through a communication interface, receiving the metavariable at the one or more receiving devices, processing the metavariable in the receiving device for evaluation of action required, reading the metavariable into a variable manager,

retrieving and processing each of the variable settings in the metavariable table of the instant application is analogous to the generation of a response which includes one or more metavariables each indicative of one or more local variables of the peripheral device, the transmitting the response from the peripheral device to the host computer through NPA protocol, receiving the response from the peripheral device at the host computer, generating a functional virtual operator panel at the host computer based upon the response which includes one or more metavariables being indicative of one or more local variables of the peripheral device, selecting (i.e. reading and retrieving such that the selection of appropriate data is in essence the management of data) a panel description from a plurality of panel descriptions (i.e. metavariable table) in the data store of the peripheral device of the patent, respectively.

However, the patent does not explicitly claim wherein the parameters of the at least one devices define one or more rendering characteristics applied to a print job and wherein the peripheral device is a printer.

The specification can be used as a dictionary to learn the meaning of a term in the patent claim. See MPEP 804 II.B(1). The specification defines the variables as settings which adjust the peripheral device (i.e. a printer) in accordance with a particular print quality setting or application setting required to perform a specific print job (see *Fig. 11, column 8, lines 6 – 8, column 9, lines 20 – 22 and column 38, lines 15 – 21*).

One of ordinary skill in the art would conclude that the invention defined in the claim of the application at issue would have been an obvious variant because printers

as peripheral devices communicating printer settings as well as print job settings with host computers is well known and conventional in the art.

Furthermore, for the sake of the two-way obviousness test, one of ordinary skill in the art would conclude that the invention defined in patent would have been an obvious variant because the more specific limitation of the claim of the application at issue anticipates the broader limitation of the claim in the patent.

8. **Claims 2, 5 – 7, 9, 24, 27 – 29, 31, 39 and 40** are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over **claim 2** of U.S. Patent No. 6,498,611. A two-way test for obviousness is appropriate in this situation because Applicant could not have filed the conflicting claims in a single application, and administrative delay on the part of the Office caused the later filed application to issue first. Although the conflicting claims are not identical, they are not patentably distinct from each other because

An interface between two or more devices each having a data store (i.e. first data store, second data store), at least one metavariable being indicative of two or more parameters of at least one of the devices, a datastream occurring between the data store of one transmitting device and the data store of one or more receiving devices such that the metavariable is transmitted from the transmitting device to the one or more receiving devices, a metavariable table including at least one metavariable setting and two or more variable settings corresponding to each of the at least one metavariable setting and at least one of the transmitting device and the receiving device include a

variable manager to process variables including the metavariable of the instant application is analogous to a peripheral interface in an interface with a host computer each having a data store, public settings and corresponding private settings of the peripheral device wherein each public setting is indicative of at least one private setting of the peripheral devices, bidirectional communication between at least one host computer and the peripheral device, a response including a plurality of public settings (i.e. metavariable table) and corresponding private settings of the peripheral device and the host computer generating a virtual operator panel based upon the received response of the patent, respectively.

However, the patent does not explicitly claim wherein the parameters of the at least one devices define one or more rendering characteristics applied to a print job and wherein the peripheral device is a printer.

The specification can be used as a dictionary to learn the meaning of a term in the patent claim. See MPEP 804 II.B(1). The specification defines the variables as settings which adjust the peripheral device (i.e. a printer) in accordance with a particular print quality setting or application setting required to perform a specific print job (*see Fig. 11, column 8, lines 6 – 8, column 9, lines 20 – 22 and column 38, lines 15 – 21*).

One of ordinary skill in the art would conclude that the invention defined in the claim of the application at issue would have been an obvious variant because printers as peripheral devices communicating printer settings as well as print job settings with host computers is well known and conventional in the art.

Furthermore, for the sake of the two-way obviousness test, one of ordinary skill in the art would conclude that the invention defined in patent would have been an obvious variant because the more specific limitation of the claim of the application at issue anticipates the broader limitation of the claim in the patent.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Beard et al.** (U.S. Patent No. 6,615,297) disclose a system for manipulating device settings across different types of devices wherein the assignee and some of the inventors are the same as the instant application (*see Abstract*).

**Hanson** (U.S. Patent No. 6,148,346) discloses a dynamic device driver (*see Abstract and Figs. 2, 5 – 7, 8G and 9*).

**Morikawa et al.** (U.S. Patent No. 4,965,771) disclose a printer controller for connecting a printer to an information processor having a different protocol from that of a printer (*see Abstract and Figs. 1(a)*).

**Hattori et al.** (U.S. Patent No. 6,857,000) disclose object-oriented data storage and retrieval system using index table (*see Abstract and Figs. 1 – 2*).

**George et al.** (U.S. Patent No. 6,996,566) disclose a system wherein metadata is obtained from a database and provided to an object model that uses the database to persist the state of its objects (*see Abstract and Fig. 5*).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Myles D. Robinson whose telephone number is (571)272-5944. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Twyler L. Haskins can be reached on (571) 272-7406. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Myles D. Robinson/  
Examiner, Art Unit 2625  
6/6/08

/Twyler L. Haskins/  
Supervisory Patent Examiner, Art Unit 2625